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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALISTAIR HAMILTON, and RAJ BRIDGELALL

Appeal 2009-008808
Application 10/733,221
Technology Center 2800

Before ALLEN R. MACDONALD, *Chief Administrative Patent Judge*,
CARL W. WHITEHEAD, JR., and BRADLEY W. BAUMEISTER,
Administrative Patent Judges.

MACDONALD, *Chief Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF CASE

Introduction

Appellants appeal under 35 U.S.C. § 134 from a rejection of claims 1-4, 6, 8-23, and 25-29. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim

Exemplary independent claim 9 under appeal reads as follows:

9. A method of charging a portable unit comprising:
 - allocating a charge time to charge a rechargeable power supply of the portable unit;
 - providing at least one primary induction assembly with a primary winding configured to create a magnetic flux;
 - providing a second pick up induction assembly coupled to the rechargeable power supply of the portable unit, the magnetic flux extendable in to the second pick up induction assembly; and
 - opportunistically recharging the power supply based at least in part on the charge time *via* a current created in the second induction assembly from the magnetic flux.

Rejections

1. The Examiner rejected claims 1, 9, 11-14, 17-19, 27, and 29 under 35 U.S.C. § 102(e) as being anticipated by Cheng et al. (“Cheng”), U.S. Published Patent Application 2003/0210106 A1.

2. The Examiner rejected dependent claims 2-4, 6, 8, 10, 15, 16, 20-23, 25, 26, and 28 as being unpatentable under 35 U.S.C. § 103(a) over combinations of Cheng with various secondary references.²

² The rejections of dependent claims under 103(a) are not separately argued from the rejection of the independent claims under 102(e).

Appellants' Contentions

Appellants contend that the Examiner erred in rejecting claims 1-4, 6, 8-23, and 25-29 because:

A. As to independent claims 1 and 19, “[t]he Examiner is mistaken in contending that Cheng *et al.*'s control unit controls the charging time of secondary devices within the system.” (App. Br. 6).

B. Also as to independent claims 1 and 19, “[t]he Examiner incorrectly contends that Cheng *et al.* discloses a controller that determines a first charging time and allocates a second charging time for a portable computing device, citing paragraphs [0081] and [0163].” (App. Br. 6). “However, this disclosure fails to show either *determining or allocating charging times* since the system of Cheng *et al.* is simply modifying the behavior of the primary charger device to accommodate secondary devices.” (App. Br. 7).

C. “Independent claims 9 and 29 recite similar limitations, namely *allocating a charge time to charge a rechargeable power supply of the portable unit*. Cheng *et al.* is silent with regard to such novel aspects of the claimed invention.” (App. Br. 7).

Issues on Appeal

Whether the Examiner has erred in rejecting 1-4, 6, 8-23, and 25-29 as being anticipated because Cheng fails to disclose claim limitation(s)?

ANALYSIS

We disagree with the Appellants' contention A above. The Examiner has not erred in finding that Cheng et al.'s control unit controls the charging

time. Cheng's disclosure at paragraph [0081] that "the control unit may also coordinate the parameters such as the phase difference or on/off times of different driving circuits" is sufficient to teach control of the charging time based on the "sensing unit which feeds back the current status of the circuit" also disclosed in paragraph [0081].

For the same reason, we also disagree with the first portion of Appellants' contention B above. The Examiner has not erred in finding that Cheng "determines a first charging time." The broad term "determine" merely requires that there be some control of the on/off times and this is taught by Cheng.

However, we agree with the second portion of Appellants' contention B above. The Examiner has erred in finding that Cheng "allocates a second charging time." The term "allocate" requires that there be some specific time "set aside for the purpose"³ of charging and this is not taught by Cheng. While Cheng teaches controlling charging time based on sensing the need for charging, Cheng does not allocate a time for the charging. For the same reason, we agree with the Appellants' contention C above.

CONCLUSIONS

(1) Appellants have established that the Examiner erred in rejecting claims 1, 9, 11-14, 17-19, 27, and 29 as being anticipated under 35 U.S.C. § 102(e).

³ Allocate means "to set aside for a special purpose." Webster's II, New Riverside University Dictionary; The Riverside Publishing Company; 1988.

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(2) Appellants have established that the Examiner erred in rejecting claims 2-4, 6, 8, 10, 15, 16, 20-23, 25, 26, and 28 as being unpatentable under 35 U.S.C. § 103(a).

(3) On this record, claims 1-4, 6, 8-23, and 25-29 have not been shown to be unpatentable.

DECISION

The Examiner's rejections of claims 1-4, 6, 8-23, and 25-29 are reversed.

REVERSED

gvw

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